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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,974	07/30/2003	Edward W. Jackson	127524-1000	9515

32914 7590 02/08/2005  
GARDERE WYNNE SEWELL LLP  
INTELLECTUAL PROPERTY SECTION  
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DALLAS, TX 75201-4761

EXAMINER

LE, TAN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 02/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/629,974

Applicant(s)

JACKSON, EDWARD W.

Examiner

Tan Le

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/03/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This is the first office action for Application serial number 10/629,974. This application contains 11 claims numbered 1-11.

***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-5, drawn to a support bracket in combination with a support structure in the hoistway, classified in class 187, subclass 414.
- II. Claims 6-11 drawn to a subcombination of support bracket, classified in class 248, subclass 215.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions Groups I and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the particular of the subcombination does not claim in the combination. The subcombination has separate utility such as a hanger for hanging an object.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Michael Martin on February 3, 2005, a provisional election was made without traverse to prosecute the invention of Group II, claims 6-11. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-5 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. IDS file d11/03/2003 has been reviewed and considered.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term such as "engageable" as claimed in claims 6, 8, 9, and 10-11 are vague and indefinite in the sense that things which may be done are not required to be done. For example, a hook part engageable with said support rail as claimed in claim 6, line 7) but is not required structurally to be engaged to the support rail. See "crimpable" and "discardable" in *Mahtis in Hydro Air Industries* 1 USPQ 2d 1513, 1527 (D.C. Calif, 1986); and "removable" in *re Burke Inc.*, 22 USPQ2d 1368, 1372 (D.C. Calif 1992). Since the scope of the claim is unclear as to what Applicant is intended to be drawn to i.e, either the support bracket alone or the combination of the support bracket and the

support rail. In formulating a rejection on merits, the examiner is considering the claim is drawn to the subcombination.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,145,677 to Corniel.

Corniel discloses a clothes hanging system bracket comprising: a plurality of spaced apart hook members (14, 16) interconnected by frame member (20, 22, 24, 26) of said support bracket, each of said hook members including hook part capable of engaging with a support rail; the frame member can be adapted to support hoist equipment; and a retaining means (screw) (18) mounted on respective ones of the hook members and capable of engaging a support rail,

Claims 6-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5,810,180 to Chan.

Chan discloses a fixing device comprising: a plurality of spaced apart hook members (1, 11) (see Figs.1 and 3) interconnected by a frame member (3) of a support bracket, each of said hook members including hook part capable of engaging with a support rail, a depending member (2) connected said frame member and including an

opening (inside loop 2) formed therein, which is capable of supporting a hoist equipment; and a retaining means (screw) (14) mounted on respective ones of the hook members and capable of engaging the support rail.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,037,728 to Cameron

4,273,436 to Drell

5314,155 to Behrendt et al.

5,642,819 to Ronia

3,424,422 to Klangos

2,896,896 to Revzin

The above patents disclose various types of support hanging brackets.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tan Le whose telephone number is (703) 305-8244.

The examiner can normally be reached on Mon. through Fri. from 9:00 AM-6:00 PM.

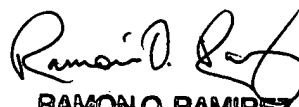
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tan Le  
Patent examiner  
February 3, 2005.



**RAMON O. RAMIREZ**  
**PRIMARY EXAMINER**